

AMENDED IN SENATE JUNE 23, 2005

AMENDED IN SENATE JUNE 6, 2005

AMENDED IN ASSEMBLY MARCH 29, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## ASSEMBLY BILL

**No. 522**

**Introduced by Assembly Members Plescia and Bogh**  
***(Coauthors: Assembly Members Spitzer and Vargas)***

February 16, 2005

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An act to amend Section 1261.6 of the Health and Safety Code, ~~to amend Sections 290 and 290.46 of,~~ and to add Section 290.02 to; the Penal Code, and to add Section 14133.225 to the Welfare and Institutions Code, relating to prescription drugs and other therapies, and declaring the urgency thereof, to take effect immediately.

### LEGISLATIVE COUNSEL'S DIGEST

AB 522, as amended, Plescia. Automated drug delivery system: Medi-Cal coverage: drugs or other therapies: registered sex offenders.

Existing law provides for skilled nursing and intermediate care facilities to use an automated drug delivery system to store and distribute drugs, and to track the movement of drugs into and out of the system. Existing law regulates the manner in which a pharmacist stocks and oversees the removal of drugs from an automated drug delivery system.

This bill would clarify existing law to define pharmacy services and to require a pharmacist reviewing an order for a drug to check for contraindications and adverse drug reactions. This bill would further clarify existing law to prevent licensed personnel from accessing a different drug or dose of a drug than that approved by a pharmacist.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services and under which qualified low-income persons receive health care services, pursuant to a schedule of health care benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions.

Existing law requires a person who has committed one or more designated sex crimes to register with the law enforcement agency of the city, county, city and county, or campus in which the person resides. Existing law provides that the Department of Justice shall make available information concerning specified registered sex offenders to the public via an Internet Web site.

This bill would provide that the State Department of Health Services shall not provide or pay for any prescription drug or therapy to treat erectile dysfunction for any Medi-Cal recipient required to register pursuant to these provisions, except to the extent it is required under federal law.

This bill would require the Department of Justice to ~~make available sex offender identification information concerning~~ *provide, upon written request, the names and relevant information pertaining to* persons required to register under these provisions to any state governmental entity responsible for authorizing or providing publicly funded prescription drugs or other therapies to treat erectile dysfunction of these persons.

*This bill would authorize the Department of Justice to establish a fee for the above requests.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1261.6 of the Health and Safety Code is  
2 amended to read:

3 1261.6. (a) (1) For purposes of this section and Section  
4 1261.5, an “automated drug delivery system” means a  
5 mechanical system that performs operations or activities, other  
6 than compounding or administration, relative to the storage,  
7 dispensing, or distribution of drugs. An automated drug delivery  
8 system shall collect, control, and maintain all transaction

1 information to accurately track the movement of drugs into and  
2 out of the system for security, accuracy, and accountability.

3 (2) For purposes of this section, “facility” means a health  
4 facility licensed pursuant to subdivision (c), (d), or both, of  
5 Section 1250 that has an automated drug delivery system  
6 provided by a pharmacy.

7 (3) For purposes of this section, “pharmacy services” means  
8 the provision of both routine and emergency drugs and  
9 biologicals to meet the needs of the patient as prescribed by a  
10 physician.

11 (b) Transaction information shall be made readily available in  
12 a written format for review and inspection by individuals  
13 authorized by law. These records shall be maintained in the  
14 facility for a minimum of three years.

15 (c) Individualized and specific access to automated drug  
16 delivery systems shall be limited to facility and contract  
17 personnel authorized by law to administer drugs.

18 (d) (1) The facility and the pharmacy shall develop and  
19 implement written policies and procedures to ensure safety,  
20 accuracy, accountability, security, patient confidentiality, and  
21 maintenance of the quality, potency, and purity of stored drugs.  
22 Policies and procedures shall define access to the automated drug  
23 delivery system and limits to access to equipment and drugs.

24 (2) All policies and procedures shall be maintained at the  
25 pharmacy operating the automated drug delivery system and the  
26 location where the automated drug delivery system is being used.

27 (e) When used as an emergency pharmaceutical supplies  
28 container, drugs removed from the automated drug delivery  
29 system shall be limited to the following:

30 (1) A new drug order given by a prescriber for a patient of the  
31 facility for administration prior to the next scheduled delivery  
32 from the pharmacy, or 72 hours, whichever is less. The drugs  
33 shall be retrieved only upon authorization by a pharmacist and  
34 after the pharmacist has reviewed the prescriber’s order and the  
35 patient’s profile for potential contraindications and adverse drug  
36 reactions.

37 (2) Drugs that a prescriber has ordered for a patient on an  
38 as-needed basis, if the utilization and retrieval of those drugs are  
39 subject to ongoing review by a pharmacist.

(3) Drugs designed by the patient care policy committee or pharmaceutical service committee of the facility as emergency drugs or acute onset drugs. These drugs may be retrieved from an automated drug delivery system pursuant to the order of a prescriber for emergency or immediate administration to a patient of the facility. Within 48 hours after retrieval under this paragraph, the case shall be reviewed by a pharmacist.

(f) When used to provide pharmacy services pursuant to Section 4119.1 of the Business and Professions Code, the automated drug delivery system shall be subject to all of the following requirements:

(1) Drugs removed from the automated drug delivery system for administration to a patient shall be in properly labeled units of administration containers or packages.

(2) A pharmacist shall review and approve all orders prior to a drug being removed from the automated drug delivery system for administration to a patient. The pharmacist shall review the prescriber's order and the patient's profile for potential contraindications and adverse drug reactions.

(3) The pharmacy providing services to the facility pursuant to Section 4119.1 of the Business and Professions Code shall control access to the drugs stored in the automated drug delivery system.

(4) Access to the automated drug delivery system shall be controlled and tracked using an identification or password system or biosensor.

(5) The automated drug delivery system shall make a complete and accurate record of all transactions which will include all users accessing the system and all drugs added to or removed from the system.

(6) After the pharmacist reviews the prescriber's order, access by licensed personnel to the automated drug delivery system shall be limited only to the drug as ordered by the prescriber and reviewed by the pharmacist and that is specific to the patient. When the prescriber's order requires a dosage variation of the same drug, licensed personnel shall only have access to the drug ordered for that scheduled time of administration.

(g) The stocking of an automated drug delivery system shall be performed by a pharmacist. If the automated drug delivery system utilizes removable pockets or drawers, or similar

1 technology, the stocking system may be done outside of the  
2 facility and be delivered to the facility if all of the following  
3 conditions are met:

4 (1) The task of placing drugs into the removable pockets or  
5 drawers is performed by a pharmacist or by an intern pharmacist  
6 or a pharmacy technician working under the direct supervision of  
7 a pharmacist.

8 (2) The removable pockets or drawers are transported between  
9 the pharmacy and the facility in a secure tamper-evident  
10 container.

11 (3) The facility, in conjunction with the pharmacy, has  
12 developed policies and procedures to ensure that the pockets or  
13 drawers are properly placed into the automated drug delivery  
14 system.

15 (h) Review of the drugs contained within, and the operation  
16 and maintenance of, the automated drug delivery system shall be  
17 done in accordance with law and shall be the responsibility of the  
18 pharmacy. The review shall be conducted on a monthly basis by  
19 a pharmacist and shall include a physical inspection of the drugs  
20 in the automated drug delivery system, an inspection of the  
21 automated drug delivery system machine for cleanliness, and a  
22 review of all transaction records in order to verify the security  
23 and accountability of the system.

24 (i) Drugs dispensed from an automated drug delivery system  
25 that meets the requirements of this section shall not be subject to  
26 the labeling requirements of Section 4076 of the Business and  
27 Professions Code or Section 111480 of this code if the drugs to  
28 be placed into the automated drug delivery system are in unit  
29 dose packaging or unit of use and if the information required by  
30 Section 4076 of the Business and Professions Code and Section  
31 111480 of this code is readily available at the time of drug  
32 administration.

33 ~~SEC. 2. Section 290 of the Penal Code is amended to read:~~

34 ~~290. (a) (1) (A) Every person described in paragraph (2),~~  
35 ~~for the rest of his or her life while residing in California, or while~~  
36 ~~attending school or working in California, as described in~~  
37 ~~subparagraph (G), shall be required to register with the chief of~~  
38 ~~police of the city in which he or she is residing, or the sheriff of~~  
39 ~~the county if he or she is residing is located, in an unincorporated~~  
40 ~~area or city that has no police department, and, additionally, with~~

1 the chief of police of a campus of the University of California,  
2 the California State University, or community college if he or she  
3 is residing upon the campus or in any of its facilities, within five  
4 working days of coming into, or changing his or her residence  
5 within, any city, county, or city and county, or campus in which  
6 he or she temporarily resides.

7 (B) If the person who is registering has more than one  
8 residence address at which he or she regularly resides, he or she  
9 shall register in accordance with subparagraph (A) in each of the  
10 jurisdictions in which he or she regularly resides, regardless of  
11 the number of nights spent there. If all of the addresses are within  
12 the same jurisdiction, the person shall provide the registering  
13 authority with all of the addresses where he or she regularly  
14 resides.

15 (C) Every person described in paragraph (2), for the rest of  
16 his or her life while living as a transient in California shall be  
17 required to register, as follows:

18 (i) A transient must register, or reregister if the person has  
19 previously registered, within five working days from release  
20 from incarceration, placement or commitment, or release on  
21 probation, pursuant to paragraph (1) of subdivision (a), except  
22 that if the person previously registered at a transient less than 30  
23 days from the date of his or her release from incarceration, he or  
24 she does not need to reregister as a transient until his or her next  
25 required 30-day update of registration. If a transient is not  
26 physically present in any one jurisdiction for five consecutive  
27 working days, he or she must register in the jurisdiction in which  
28 he or she is physically present on the fifth working day following  
29 release, pursuant to paragraph (1) of subdivision (a). Beginning  
30 on or before the 30th day following initial registration upon  
31 release, a transient must reregister no less than once every 30  
32 days thereafter. A transient shall register with the chief of police  
33 of the city in which he or she is physically present within that  
34 30-day period, or the sheriff of the county if he or she is  
35 physically present in an unincorporated area or city that has no  
36 police department, and additionally, with the chief of police of a  
37 campus of the University of California, the California State  
38 University, or community college if he or she is physically  
39 present upon the campus or in any of its facilities. A transient  
40 must reregister no less than once every 30 days regardless of the

length of time he or she has been physically present in the particular jurisdiction in which he or she reregisters. If a transient fails to reregister within any 30-day period, he or she may be prosecuted in any jurisdiction in which he or she is physically present.

(ii) A transient who moves to a residence shall have five working days within which to register at that address, in accordance with subparagraph (A) of paragraph (1) of subdivision (a). A person registered at a residence address in accordance with subparagraph (A) of paragraph (1) of subdivision (a), who becomes transient shall have five working days within which to reregister as a transient in accordance with clause (i).

(iii) Beginning on his or her first birthday following registration, a transient shall register annually, within five working days of his or her birthday, to update his or her registration with the entities described in clause (i). A transient shall register in whichever jurisdiction he or she is physically present on that date. At the 30-day updates and the annual update, a transient shall provide current information as required on the Department of Justice annual update form, including the information described in subparagraphs (A) to (C), inclusive, of paragraph (2) of subdivision (c), and the information specified in clause (iv).

(iv) A transient shall, upon registration and reregistration, provide current information as required on the Department of Justice registration forms, and shall also list the places where he or she sleeps, eats, works, frequents, and engages in leisure activities. If a transient changes or adds to the places listed on the form during the 30-day period, he or she does not need to report the new place or places until the next required reregistration.

(v) Failure to comply with the requirement of reregistering every 30 days following initial registration pursuant to clause (i) of this subparagraph shall be punished in accordance with paragraph (6) of subdivision (g). Failure to comply with any other requirement of this section shall be punished in accordance with either paragraph (1) or (2) of subdivision (g).

(vi) A transient who moves out of state shall inform, in person or in writing, the chief of police in the city in which he or she is physically present, or the sheriff of the county, if he or she

1 physically present in an unincorporated area or city that has no  
2 police department, within five working days of his or her move  
3 out of state. The transient shall inform that registering agency of  
4 his or her planned destination, residence or transient location out  
5 of state, and any plans he or she has to return to California, if  
6 known. The law enforcement agency shall, within three days  
7 after receipt of this information, forward a copy of the change of  
8 location information to the Department of Justice. The  
9 department shall forward appropriate registration data to the law  
10 enforcement agency having local jurisdiction of the new place of  
11 residence or location.

12 (vii) For purposes of this section, “transient” means a person  
13 who has no residence. “Residence” means a place where a person  
14 is living or temporarily staying for more than five days, such as a  
15 shelter or structure that can be located by a street address,  
16 including, but not limited to, houses, apartment buildings, motels,  
17 hotels, homeless shelters, and recreational and other vehicles.

18 (viii) The transient registrant’s duty to update his or her  
19 registration no less than every 30 days shall begin with his or her  
20 second transient update following the date this subdivision  
21 became effective.

22 (D) Beginning on his or her first birthday following  
23 registration or change of address, the person shall be required to  
24 register annually, within five working days of his or her birthday,  
25 to update his or her registration with the entities described in  
26 subparagraph (A). At the annual update, the person shall provide  
27 current information as required on the Department of Justice  
28 annual update form, including the information described in  
29 subparagraphs (A) to (C), inclusive, of paragraph (2) of  
30 subdivision (c).

31 (E) In addition, every person who has ever been adjudicated a  
32 sexually violent predator, as defined in Section 6600 of the  
33 Welfare and Institutions Code, shall, after his or her release from  
34 custody, verify his or her address no less than once every 90 days  
35 and place of employment, including the name and address of the  
36 employer, in a manner established by the Department of Justice.

37 (F) No entity shall require a person to pay a fee to register or  
38 update his or her registration pursuant to this section. The  
39 registering agency shall submit registrations, including annual



1 updates or changes of address, directly into the Department of  
2 Justice Violent Crime Information Network (VCIN).

3 (G) Persons required to register in their state of residence who  
4 are out-of-state residents employed, or carrying on a vocation in  
5 California on a full-time or part-time basis, with or without  
6 compensation, for more than 14 days, or for an aggregate period  
7 exceeding 30 days in a calendar year, shall register in accordance  
8 with subparagraph (A). Persons described in paragraph (2) who  
9 are out-of-state residents enrolled in any educational institution  
10 in California, as defined in Section 22129 of the Education Code,  
11 on a full-time or part-time basis, shall register in accordance with  
12 subparagraph (A). The place where the out-of-state resident is  
13 located, for purposes of registration, shall be the place where the  
14 person is employed, carrying on a vocation, or attending school.  
15 The out-of-state resident subject to this subparagraph shall, in  
16 addition to the information required pursuant to subdivision (e),  
17 provide the registering authority with the name of his or her place  
18 of employment or the name of the school attended in California,  
19 and his or her address or location in his or her state of residence.  
20 The registration requirement for persons subject to this  
21 subparagraph shall become operative on November 25, 2000.  
22 The terms “employed or carries on a vocation” include  
23 employment whether or not financially compensated,  
24 volunteered, or performed for government or educational benefit.

25 (2) The following persons shall be required to register  
26 pursuant to paragraph (1):

27 (A) Any person who, since July 1, 1944, has been or is  
28 hereafter convicted in any court in this state or in any federal or  
29 military court of a violation of Section 207 or 209 committed  
30 with intent to violate Section 261, 286, 288, 288a, or 289,  
31 Section 220, except assault to commit mayhem, Section 243.4,  
32 paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section  
33 261, or paragraph (1) of subdivision (a) of Section 262 involving  
34 the use of force or violence for which the person is sentenced to  
35 the state prison, Section 264.1, 266, or 266c, subdivision (b) of  
36 Section 266h, subdivision (b) of Section 266i, Section 266j, 267,  
37 269, 285, 286, 288, 288a, 288.5, or 289, Section 311.1,  
38 subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4,  
39 311.10, 311.11, or 647.6, former Section 647a, subdivision (c) of  
40 Section 653f, subdivision 1 or 2 of Section 314, any offense

1 involving lewd or lascivious conduct under Section 272, or any  
2 felony violation of Section 288.2; or any statutory predecessor  
3 that includes all elements of one of the above-mentioned  
4 offenses; or any person who since that date has been or is  
5 hereafter convicted of the attempt to commit any of the  
6 above-mentioned offenses.

7 (B) Any person who, since July 1, 1944, has been or hereafter  
8 is released, discharged, or paroled from a penal institution where  
9 he or she was confined because of the commission or attempted  
10 commission of one of the offenses described in subparagraph  
11 (A):

12 (C) Any person who, since July 1, 1944, has been or hereafter  
13 is determined to be a mentally disordered sex offender under  
14 Article 1 (commencing with Section 6300) of Chapter 2 of Part 2  
15 of Division 6 of the Welfare and Institutions Code or any person  
16 who has been found guilty in the guilt phase of a trial for an  
17 offense for which registration is required by this section but who  
18 has been found not guilty by reason of insanity in the sanity  
19 phase of the trial.

20 (D) (i) Any person who, since July 1, 1944, has been, or is  
21 hereafter convicted in any other court, including any state,  
22 federal, or military court, of any offense that, if committed or  
23 attempted in this state, would have been punishable as one or  
24 more of the offenses described in subparagraph (A):

25 (ii) Any person ordered by any other court, including any  
26 state, federal, or military court, to register as a sex offender for  
27 any offense, if the court found at the time of conviction or  
28 sentencing that the person committed the offense as a result of  
29 sexual compulsion or for purposes of sexual gratification.

30 (iii) Except as provided in clause (iv), any person who would  
31 be required to register while residing in the state of conviction for  
32 a sex offense committed in that state:

33 (iv) Clause (iii) shall not apply to a person required to register  
34 in the state of conviction if the conviction was for the equivalent  
35 of one of the following offenses, and the person is not subject to  
36 clause (i):

37 (I) Indecent exposure, pursuant to Section 314.

38 (II) Unlawful sexual intercourse, pursuant to Section 261.5.

39 (III) Incest, pursuant to Section 285.

1 ~~(IV) Sodomy, pursuant to Section 286, or oral copulation,~~  
2 ~~pursuant to Section 288a, provided that the offender notifies the~~  
3 ~~Department of Justice that the sodomy or oral copulation~~  
4 ~~conviction was for conduct between consenting adults, as~~  
5 ~~described in subparagraph (F) of paragraph (2) of subdivision (a),~~  
6 ~~and the department is able, upon the exercise of reasonable~~  
7 ~~diligence, to verify that fact.~~

8 ~~(E) Any person ordered by any court to register pursuant to~~  
9 ~~this section for any offense not included specifically in this~~  
10 ~~section if the court finds at the time of conviction or sentencing~~  
11 ~~that the person committed the offense as a result of sexual~~  
12 ~~compulsion or for purposes of sexual gratification. The court~~  
13 ~~shall state on the record the reasons for its findings and the~~  
14 ~~reasons for requiring registration.~~

15 ~~(F) (i) Notwithstanding any other subdivision, a person who~~  
16 ~~was convicted before January 1, 1976, under subdivision (a) of~~  
17 ~~Section 286, or Section 288a, shall not be required to register~~  
18 ~~pursuant to this section for that conviction if the conviction was~~  
19 ~~for conduct between consenting adults that was decriminalized~~  
20 ~~by Chapter 71 of the Statutes of 1975 or Chapter 1139 of the~~  
21 ~~Statutes of 1976. The Department of Justice shall remove that~~  
22 ~~person from the Sex Offender Registry, and the person is~~  
23 ~~discharged from his or her duty to register pursuant to the~~  
24 ~~following procedure:~~

25 ~~(I) The person submits to the Department of Justice official~~  
26 ~~documentary evidence, including court records or police reports,~~  
27 ~~that demonstrate that the person's conviction pursuant to either of~~  
28 ~~those sections was for conduct between consenting adults that~~  
29 ~~was decriminalized; or~~

30 ~~(II) The person submits to the department a declaration stating~~  
31 ~~that the person's conviction pursuant to either of those sections~~  
32 ~~was for consensual conduct between adults that has been~~  
33 ~~decriminalized. The declaration shall be confidential and not a~~  
34 ~~public record, and shall include the person's name, address,~~  
35 ~~telephone number, date of birth, and a summary of the~~  
36 ~~circumstances leading to the conviction, including the date of the~~  
37 ~~conviction and county of the occurrence.~~

38 ~~(III) The department shall determine whether the person's~~  
39 ~~conviction was for conduct between consensual adults that has~~  
40 ~~been decriminalized. If the conviction was for consensual~~

1 ~~conduct between adults that has been decriminalized, and the~~  
2 ~~person has no other offenses for which he or she is required to~~  
3 ~~register pursuant to this section, the department shall, within 60~~  
4 ~~days of receipt of those documents, notify the person that he or~~  
5 ~~she is relieved of the duty to register, and shall notify the local~~  
6 ~~law enforcement agency with which the person is registered that~~  
7 ~~he or she has been relieved of the duty to register. The local law~~  
8 ~~enforcement agency shall remove the person's registration from~~  
9 ~~its files within 30 days of receipt of notification. If the~~  
10 ~~documentary or other evidence submitted is insufficient to~~  
11 ~~establish the person's claim, the department shall, within 60 days~~  
12 ~~of receipt of those documents, notify the person that his or her~~  
13 ~~claim cannot be established, and that the person shall continue to~~  
14 ~~register pursuant to this section. The department shall provide,~~  
15 ~~upon the person's request, any information relied upon by the~~  
16 ~~department in making its determination that the person shall~~  
17 ~~continue to register pursuant to this section. Any person whose~~  
18 ~~claim has been denied by the department pursuant to this clause~~  
19 ~~may petition the court to appeal the department's denial of the~~  
20 ~~person's claim.~~

21 ~~(ii) On or before July 1, 1998, the department shall make a~~  
22 ~~report to the Legislature concerning the status of persons who~~  
23 ~~may come under the provisions of this subparagraph, including~~  
24 ~~the number of persons who were convicted before January 1,~~  
25 ~~1976, under subdivision (a) of Section 286 or Section 288a and~~  
26 ~~are required to register under this section, the average age of~~  
27 ~~these persons, the number of these persons who have any~~  
28 ~~subsequent convictions for a registerable sex offense, and the~~  
29 ~~number of these persons who have sought successfully or~~  
30 ~~unsucessfully to be relieved of their duty to register under this~~  
31 ~~section.~~

32 ~~(b) (1) Any person who is released, discharged, or paroled~~  
33 ~~from a jail, state or federal prison, school, road camp, or other~~  
34 ~~institution where he or she was confined because of the~~  
35 ~~commission or attempted commission of one of the offenses~~  
36 ~~specified in subdivision (a) or is released from a state hospital to~~  
37 ~~which he or she was committed as a mentally disordered sex~~  
38 ~~offender under Article 1 (commencing with Section 6300) of~~  
39 ~~Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions~~  
40 ~~Code, shall, prior to discharge, parole, or release, be informed of~~

1 his or her duty to register under this section by the official in  
2 charge of the place of confinement or hospital, and the official  
3 shall require the person to read and sign any form that may be  
4 required by the Department of Justice, stating that the duty of the  
5 person to register under this section has been explained to the  
6 person. The official in charge of the place of confinement or  
7 hospital shall obtain the address where the person expects to  
8 reside upon his or her discharge, parole, or release and shall  
9 report the address to the Department of Justice. The official shall  
10 at the same time forward a current photograph of the person to  
11 the Department of Justice.

12 (2) The official in charge of the place of confinement or  
13 hospital shall give one copy of the form to the person and shall  
14 send one copy to the Department of Justice and one copy to the  
15 appropriate law enforcement agency or agencies having  
16 jurisdiction over the place the person expects to reside upon  
17 discharge, parole, or release. If the conviction that makes the  
18 person subject to this section is a felony conviction, the official  
19 in charge shall, not later than 45 days prior to the scheduled  
20 release of the person, send one copy to the appropriate law  
21 enforcement agency or agencies having local jurisdiction where  
22 the person expects to reside upon discharge, parole, or release;  
23 one copy to the prosecuting agency that prosecuted the person;  
24 and one copy to the Department of Justice. The official in charge  
25 of the place of confinement or hospital shall retain one copy.

26 (c) (1) Any person who is convicted in this state of the  
27 commission or attempted commission of any of the offenses  
28 specified in subdivision (a) and who is released on probation,  
29 shall, prior to release or discharge, be informed of the duty to  
30 register under this section by the probation department, and a  
31 probation officer shall require the person to read and sign any  
32 form that may be required by the Department of Justice, stating  
33 that the duty of the person to register under this section has been  
34 explained to him or her. The probation officer shall obtain the  
35 address where the person expects to reside upon release or  
36 discharge and shall report within three days the address to the  
37 Department of Justice. The probation officer shall give one copy  
38 of the form to the person, send one copy to the Department of  
39 Justice, and forward one copy to the appropriate law enforcement

1 ~~agency or agencies having local jurisdiction where the person~~  
2 ~~expects to reside upon his or her discharge, parole, or release.~~

3 ~~(2) Any person who is convicted in this state of the~~  
4 ~~commission or attempted commission of any of the offenses~~  
5 ~~specified in subdivision (a) and who is granted conditional~~  
6 ~~release without supervised probation, or discharged upon~~  
7 ~~payment of a fine, shall, prior to release or discharge, be~~  
8 ~~informed of the duty to register under this section in open court~~  
9 ~~by the court in which the person has been convicted, and the~~  
10 ~~court shall require the person to read and sign any form that may~~  
11 ~~be required by the Department of Justice, stating that the duty of~~  
12 ~~the person to register under this section has been explained to~~  
13 ~~him or her. If the court finds that it is in the interest of the~~  
14 ~~efficiency of the court, the court may assign the bailiff to require~~  
15 ~~the person to read and sign forms under this section. The court~~  
16 ~~shall obtain the address where the person expects to reside upon~~  
17 ~~release or discharge and shall report within three days the address~~  
18 ~~to the Department of Justice. The court shall give one copy of the~~  
19 ~~form to the person, send one copy to the Department of Justice,~~  
20 ~~and forward one copy to the appropriate law enforcement agency~~  
21 ~~or agencies having local jurisdiction where the person expects to~~  
22 ~~reside upon his or her discharge, parole, or release.~~

23 ~~(d) (1) Any person who, on or after January 1, 1986, is~~  
24 ~~discharged or paroled from the Department of the Youth~~  
25 ~~Authority to the custody of which he or she was committed after~~  
26 ~~having been adjudicated a ward of the juvenile court pursuant to~~  
27 ~~Section 602 of the Welfare and Institutions Code because of the~~  
28 ~~commission or attempted commission of any offense described in~~  
29 ~~paragraph (3) shall be subject to registration under the procedures~~  
30 ~~of this section.~~

31 ~~(2) Any person who is discharged or paroled from a facility in~~  
32 ~~another state that is equivalent to the Department of the Youth~~  
33 ~~Authority, to the custody of which he or she was committed~~  
34 ~~because of an offense which, if committed or attempted in this~~  
35 ~~state, would have been punishable as one or more of the offenses~~  
36 ~~described in paragraph (3), shall be subject to registration under~~  
37 ~~the procedures of this section.~~

38 ~~(3) Any person described in this subdivision who committed~~  
39 ~~an offense in violation of any of the following provisions shall be~~  
40 ~~required to register pursuant to this section:~~

1 ~~(A) Assault with intent to commit rape, sodomy, oral~~  
2 ~~copulation, or any violation of Section 264.1, 288, or 289 under~~  
3 ~~Section 220.~~

4 ~~(B) Any offense defined in paragraph (1), (2), (3), (4), or (6)~~  
5 ~~of subdivision (a) of Section 261, Section 264.1, 266c, or 267,~~  
6 ~~paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of,~~  
7 ~~Section 286, Section 288 or 288.5, paragraph (1) of subdivision~~  
8 ~~(b) of, or subdivision (c) or (d) of, Section 288a, subdivision (a)~~  
9 ~~of Section 289, or Section 647.6.~~

10 ~~(C) A violation of Section 207 or 209 committed with the~~  
11 ~~intent to violate Section 261, 286, 288, 288a, or 289.~~

12 ~~(4) Prior to discharge or parole from the Department of the~~  
13 ~~Youth Authority, any person who is subject to registration under~~  
14 ~~this subdivision shall be informed of the duty to register under~~  
15 ~~the procedures set forth in this section. Department of the Youth~~  
16 ~~Authority officials shall transmit the required forms and~~  
17 ~~information to the Department of Justice.~~

18 ~~(5) All records specifically relating to the registration in the~~  
19 ~~eustody of the Department of Justice, law enforcement agencies,~~  
20 ~~and other agencies or public officials shall be destroyed when the~~  
21 ~~person who is required to register has his or her records sealed~~  
22 ~~under the procedures set forth in Section 781 of the Welfare and~~  
23 ~~Institutions Code. This subdivision shall not be construed as~~  
24 ~~requiring the destruction of other criminal offender or juvenile~~  
25 ~~records relating to the case that are maintained by the~~  
26 ~~Department of Justice, law enforcement agencies, the juvenile~~  
27 ~~court, or other agencies and public officials unless ordered by a~~  
28 ~~court under Section 781 of the Welfare and Institutions Code.~~

29 ~~(e) (1) On or after January 1, 1998, upon incarceration,~~  
30 ~~placement, or commitment, or prior to release on probation, any~~  
31 ~~person who is required to register under this section shall~~  
32 ~~preregister. The preregistering official shall be the admitting~~  
33 ~~officer at the place of incarceration, placement, or commitment,~~  
34 ~~or the probation officer if the person is to be released on~~  
35 ~~probation. The preregistration shall consist of all of the~~  
36 ~~following:~~

37 ~~(A) A preregistration statement in writing, signed by the~~  
38 ~~person, giving information that shall be required by the~~  
39 ~~Department of Justice.~~

40 ~~(B) The fingerprints and a current photograph of the person.~~

~~(C) Any person who is preregistered pursuant to this subdivision is required to be preregistered only once.~~

~~(2) A person described in paragraph (2) of subdivision (a) shall register, or reregister if the person has previously registered, upon release from incarceration, placement, commitment, or release on probation pursuant to paragraph (1) of subdivision (a).~~

~~The registration shall consist of all of the following:~~

~~(A) A statement in writing signed by the person, giving information as shall be required by the Department of Justice and giving the name and address of the person's employer, and the address of the person's place of employment if that is different from the employer's main address.~~

~~(B) The fingerprints and a current photograph of the person taken by the registering official.~~

~~(C) The license plate number of any vehicle owned by, regularly driven by, or registered in the name of the person.~~

~~(D) Notice to the person that, in addition to the requirements of paragraph (4), he or she may have a duty to register in any other state where he or she may relocate.~~

~~(E) Copies of adequate proof of residence, which shall be limited to a California driver's license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents showing that person's name and address, or any other information that the registering official believes is reliable. If the person has no residence and no reasonable expectation of obtaining a residence in the foreseeable future, the person shall so advise the registering official and shall sign a statement provided by the registering official stating that fact. Upon presentation of proof of residence to the registering official or a signed statement that the person has no residence, the person shall be allowed to register. If the person claims that he or she has a residence but does not have any proof of residence, he or she shall be allowed to register but shall furnish proof of residence within 30 days of the date he or she is allowed to register.~~

~~(3) Within three days thereafter, the preregistering official or the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice.~~



1     ~~(f) (1) If any person who is required to register pursuant to~~  
2 ~~this section and who has a residence address changes his or her~~  
3 ~~residence address, whether within the jurisdiction in which he or~~  
4 ~~she is currently registered or to a new jurisdiction inside or~~  
5 ~~outside the state, the person shall inform, in writing within five~~  
6 ~~working days, the law enforcement agency or agencies with~~  
7 ~~which he or she last registered of the new address or transient~~  
8 ~~location and any plans he or she has to return to California, if~~  
9 ~~known. If the person does not know the new residence address or~~  
10 ~~location, the registrant shall inform the last registering agency or~~  
11 ~~agencies that he or she is moving within five working days of the~~  
12 ~~move, and shall later notify the agency or agencies of the new~~  
13 ~~address or location within five working days of moving into the~~  
14 ~~new residence address or location, whether temporary or~~  
15 ~~permanent. The law enforcement agency or agencies shall, within~~  
16 ~~three working days after receipt of this information, forward a~~  
17 ~~copy of the change of address information to the Department of~~  
18 ~~Justice. The Department of Justice shall forward appropriate~~  
19 ~~registration data to the law enforcement agency or agencies~~  
20 ~~having local jurisdiction of the new place of residence.~~

21     ~~(2) If the person's new address is in a Department of the~~  
22 ~~Youth Authority facility or a state prison or state mental~~  
23 ~~institution, an official of the place of incarceration, placement, or~~  
24 ~~commitment shall, within 90 days of receipt of the person,~~  
25 ~~forward the registrant's change of address information to the~~  
26 ~~Department of Justice. The agency need not provide a physical~~  
27 ~~address for the registrant but shall indicate that he or she is~~  
28 ~~serving a period of incarceration or commitment in a facility~~  
29 ~~under the agency's jurisdiction. This paragraph shall apply to~~  
30 ~~persons received in a Department of the Youth Authority facility~~  
31 ~~or a state prison or state mental institution on or after January 1,~~  
32 ~~1999. The Department of Justice shall forward the change of~~  
33 ~~address information to the agency with which the person last~~  
34 ~~registered.~~

35     ~~(3) If any person who is required to register pursuant to this~~  
36 ~~section changes his or her name, the person shall inform, in~~  
37 ~~person, the law enforcement agency or agencies with which he or~~  
38 ~~she is currently registered within five working days. The law~~  
39 ~~enforcement agency or agencies shall forward a copy of this~~

1 information to the Department of Justice within three working  
2 days of its receipt.

3 ~~(g) (1) Any person who is required to register under this~~  
4 ~~section based on a misdemeanor conviction or juvenile~~  
5 ~~adjudication who willfully violates any requirement of this~~  
6 ~~section is guilty of a misdemeanor punishable by imprisonment~~  
7 ~~in a county jail not exceeding one year.~~

8 ~~(2) Except as provided in paragraphs (5), (7), and (9), any~~  
9 ~~person who is required to register under this section based on a~~  
10 ~~felony conviction or juvenile adjudication who willfully violates~~  
11 ~~any requirement of this section or who has a prior conviction or~~  
12 ~~juvenile adjudication for the offense of failing to register under~~  
13 ~~this section and who subsequently and willfully violates any~~  
14 ~~requirement of this section is guilty of a felony and shall be~~  
15 ~~punished by imprisonment in the state prison for 16 months, or~~  
16 ~~two or three years.~~

17 ~~If probation is granted or if the imposition or execution of~~  
18 ~~sentence is suspended, it shall be a condition of the probation or~~  
19 ~~suspension that the person serve at least 90 days in a county jail.~~  
20 ~~The penalty described in this paragraph shall apply whether or~~  
21 ~~not the person has been released on parole or has been discharged~~  
22 ~~from parole.~~

23 ~~(3) Any person determined to be a mentally disordered sex~~  
24 ~~offender or who has been found guilty in the guilt phase of trial~~  
25 ~~for an offense for which registration is required under this~~  
26 ~~section, but who has been found not guilty by reason of insanity~~  
27 ~~in the sanity phase of the trial, or who has had a petition~~  
28 ~~sustained in a juvenile adjudication for an offense for which~~  
29 ~~registration is required under this section pursuant to subdivision~~  
30 ~~(d), but who has been found not guilty by reason of insanity, who~~  
31 ~~willfully violates any requirement of this section is guilty of a~~  
32 ~~misdemeanor and shall be punished by imprisonment in a county~~  
33 ~~jail not exceeding one year. For any second or subsequent willful~~  
34 ~~violation of any requirement of this section, the person is guilty~~  
35 ~~of a felony and shall be punished by imprisonment in the state~~  
36 ~~prison for 16 months, or two or three years.~~

37 ~~(4) If, after discharge from parole, the person is convicted of a~~  
38 ~~felony or suffers a juvenile adjudication as specified in this~~  
39 ~~subdivision, he or she shall be required to complete parole of at~~  
40 ~~least one year, in addition to any other punishment imposed~~

1 under this subdivision. A person convicted of a felony as  
2 specified in this subdivision may be granted probation only in the  
3 unusual case where the interests of justice would best be served.  
4 When probation is granted under this paragraph, the court shall  
5 specify on the record and shall enter into the minutes the  
6 circumstances indicating that the interests of justice would best  
7 be served by the disposition.

8 (5) Any person who has ever been adjudicated a sexually  
9 violent predator, as defined in Section 6600 of the Welfare and  
10 Institutions Code, and who fails to verify his or her registration  
11 every 90 days as required pursuant to subparagraph (E) of  
12 paragraph (1) of subdivision (a), shall be punished by  
13 imprisonment in the state prison, or in a county jail not exceeding  
14 one year.

15 (6) Except as otherwise provided in paragraph (5), any person  
16 who is required to register or reregister pursuant to clause of (i)  
17 of subparagraph (C) of paragraph (1) of subdivision (a) and  
18 willfully fails to comply with the requirement that he or she  
19 reregister no less than every 30 days is guilty of a misdemeanor  
20 and shall be punished by imprisonment in a county jail at least 30  
21 days, but not exceeding six months. A person who willfully fails  
22 to comply with the requirement that he or she reregister no less  
23 than every 30 days shall not be charged with this violation more  
24 often than once for a failure to register in any period of 90 days.  
25 Any person who willfully commits a third or subsequent  
26 violation of the requirements of subparagraph (C) of paragraph  
27 (1) of subdivision (a) that he or she reregister no less than every  
28 30 days shall be punished in accordance with either paragraph (1)  
29 of (2) of this subdivision.

30 (7) Any person who fails to provide proof of residence as  
31 required by subparagraph (E) of paragraph (2) of subdivision (c);  
32 regardless of the offense upon which the duty to register is based;  
33 is guilty of a misdemeanor punishable by imprisonment in a  
34 county jail not exceeding six months.

35 (8) Any person who is required to register under this section  
36 who willfully violates any requirement of this section is guilty of  
37 a continuing offense as to each requirement he or she violated.

38 (9) In addition to any other penalty imposed under this  
39 subdivision, the failure to provide information required on  
40 registration and reregistration forms of the Department of Justice,

1 ~~or the provision of false information, is a crime punishable by~~  
2 ~~imprisonment in a county jail for a period not exceeding one~~  
3 ~~year.~~

4 ~~(h) Whenever any person is released on parole or probation~~  
5 ~~and is required to register under this section but fails to do so~~  
6 ~~within the time prescribed, the parole authority, the Youthful~~  
7 ~~Offender Parole Board, or the court, as the case may be, shall~~  
8 ~~order the parole or probation of the person revoked. For purposes~~  
9 ~~of this subdivision, "parole authority" has the same meaning as~~  
10 ~~described in Section 3000.~~

11 ~~(i) Except as provided in Sections 290.01, 290.02, 290.4, and~~  
12 ~~290.45, and Section 14133.225 of the Welfare and Institutions~~  
13 ~~Code, the statements, photographs, and fingerprints required by~~  
14 ~~this section shall not be open to inspection by the public or by~~  
15 ~~any person other than a regularly employed peace officer or other~~  
16 ~~law enforcement officer.~~

17 ~~(j) In any case in which a person who would be required to~~  
18 ~~register pursuant to this section for a felony conviction is to be~~  
19 ~~temporarily sent outside the institution where he or she is~~  
20 ~~confined on any assignment within a city or county including~~  
21 ~~firefighting, disaster control, or of whatever nature the~~  
22 ~~assignment may be, the local law enforcement agency having~~  
23 ~~jurisdiction over the place or places where the assignment shall~~  
24 ~~occur shall be notified within a reasonable time prior to removal~~  
25 ~~from the institution. This subdivision shall not apply to any~~  
26 ~~person who is temporarily released under guard from the~~  
27 ~~institution where he or she is confined.~~

28 ~~(k) As used in this section, "mentally disordered sex offender"~~  
29 ~~includes any person who has been determined to be a sexual~~  
30 ~~psychopath or a mentally disordered sex offender under any~~  
31 ~~provision which, on or before January 1, 1976, was contained in~~  
32 ~~Division 6 (commencing with Section 6000) of the Welfare and~~  
33 ~~Institutions Code.~~

34 ~~(l) (1) Every person who, prior to January 1, 1997, is required~~  
35 ~~to register under this section, shall be notified whenever he or she~~  
36 ~~next reregisters of the reduction of the registration period from~~  
37 ~~14 to 5 working days. This notice shall be provided in writing by~~  
38 ~~the registering agency or agencies. Failure to receive this~~  
39 ~~notification shall be a defense against the penalties prescribed by~~  
40 ~~subdivision (g) if the person did register within 14 days.~~

~~(2) Every person who, as a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, is required to verify his or her registration every 90 days, shall be notified wherever he or she next registers of his or her increased registration obligations. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notice shall be a defense against the penalties prescribed by paragraph (5) of subdivision (g).~~

~~(m) The registration provisions of this section are applicable to every person described in this section, without regard to when his or her crime or crimes were committed or his or her duty to register pursuant to this section arose, and to every offense described in this section, regardless of when it was committed.~~

~~SEC. 3.—~~

~~SEC. 2.~~ Section 290.02 is added to the Penal Code, to read:

~~290.02. (a) Notwithstanding any other law, the Department of Justice shall make available sex offender identification information concerning~~ *provide, upon written request, the names and relevant information pertaining to persons who are required to register pursuant to Section 290 to any state governmental entity responsible for authorizing or providing publicly funded prescription drugs or other therapies to treat erectile dysfunction of those persons. State governmental entities shall use information received pursuant to this section to protect public safety by preventing the use of prescription drugs or other therapies to treat erectile dysfunction by convicted sex offenders.*

*(b) Use or disclosure of the information disclosed pursuant to this section is prohibited for any purpose other than that authorized by this section or Section 14133.225 of the Welfare and Institutions Code. The Department of Justice may establish a fee for requests, including all actual and reasonable costs associated with the service.*

*(c) Notwithstanding any other provision of law, any state governmental entity that is responsible for authorizing or providing publicly funded prescription drugs or other therapies to treat erectile dysfunction may use the sex offender database authorized by Section 290.46 to protect public safety by preventing the use of those drugs or therapies for convicted sex offenders.*

~~SEC. 4.~~ Section 290.46 of the Penal Code is amended to read:

1     ~~290.46. (a) On or before the dates specified in this section,~~  
2     ~~the Department of Justice shall make available information~~  
3     ~~concerning persons who are required to register pursuant to~~  
4     ~~Section 290 to the public via an Internet Web site as specified in~~  
5     ~~this section. The department shall update the Web site on an~~  
6     ~~ongoing basis. All information identifying the victim by name,~~  
7     ~~birth date, address, or relationship to the registrant shall be~~  
8     ~~excluded from the Web site. The name or address of the person's~~  
9     ~~employer and the listed person's criminal history other than the~~  
10    ~~specific crimes for which the person is required to register shall~~  
11    ~~not be included on the Web site. The Web site shall be translated~~  
12    ~~into languages other than English as determined by the~~  
13    ~~department.~~

14    ~~(b) (1) On or before July 1, 2005, with respect to a person~~  
15    ~~who has been convicted of the commission or the attempted~~  
16    ~~commission of any of the offenses listed in this subdivision or the~~  
17    ~~statutory predecessors of any of these offenses, or any offense~~  
18    ~~which, if committed or attempted to be committed in this state,~~  
19    ~~would have been punishable as one or more of the offenses listed~~  
20    ~~in this subdivision, the Department of Justice shall make~~  
21    ~~available to the public via the Internet Web site his or her names~~  
22    ~~and known aliases, a photograph, a physical description,~~  
23    ~~including gender and race, date of birth, criminal history, the~~  
24    ~~address at which the person resides, and any other information~~  
25    ~~that the Department of Justice deems relevant, but not the~~  
26    ~~information excluded pursuant to subdivision (a).~~

27    ~~(2) This subdivision shall apply to the following offenses:~~

28    ~~(A) Subdivision (b) of Section 207.~~

29    ~~(B) Subdivision (b) of Section 209, except kidnapping to~~  
30    ~~commit robbery.~~

31    ~~(C) Paragraph (2) or (6) of subdivision (a) of Section 261.~~

32    ~~(D) Section 264.1.~~

33    ~~(E) Section 269.~~

34    ~~(F) Subdivision (c) or (d) of Section 286.~~

35    ~~(G) Subdivision (a), (b), or (c) of Section 288, provided that~~  
36    ~~the offense is a felony.~~

37    ~~(H) Subdivision (c) or (d) of Section 288a.~~

38    ~~(I) Section 288.5.~~

39    ~~(J) Subdivision (a) or (j) of Section 289.~~

1     ~~(3) This subdivision shall also apply to any person who has~~  
2     ~~ever been adjudicated a sexually violent predator as defined in~~  
3     ~~Section 6600 of the Welfare and Institutions Code.~~

4     ~~(e) (1) On or before July 1, 2005, with respect to a person~~  
5     ~~who has been convicted of the commission or the attempted~~  
6     ~~commission of any of the offenses listed in paragraph (2) or the~~  
7     ~~statutory predecessors of any of these offenses, or any offense~~  
8     ~~which, if committed or attempted to be committed in this state,~~  
9     ~~would have been punishable as one or more of the offenses listed~~  
10    ~~in this subdivision, the Department of Justice shall make~~  
11    ~~available to the public via the Internet Web site his or her names~~  
12    ~~and known aliases, a photograph, a physical description,~~  
13    ~~including gender and race, date of birth, criminal history, the~~  
14    ~~community of residence and ZIP Code in which the person~~  
15    ~~resides, and any other information that the Department of Justice~~  
16    ~~deems relevant, but not the information excluded pursuant to~~  
17    ~~subdivision (a). However, the address at which the person resides~~  
18    ~~shall not be disclosed until a determination is made that the~~  
19    ~~person is, by virtue of his or her additional prior or subsequent~~  
20    ~~conviction of an offense listed in paragraph (2) of subdivision (a)~~  
21    ~~of Section 290, subject to this subdivision. On or before July 1,~~  
22    ~~2006, the Department of Justice shall determine whether any~~  
23    ~~person convicted of an offense listed in paragraph (2) also has~~  
24    ~~one or more prior or subsequent convictions of an offense listed~~  
25    ~~in paragraph (2) of subdivision (a) of Section 290, and, for those~~  
26    ~~persons, the Department of Justice shall make available to the~~  
27    ~~public via the Internet Web site the address at which the person~~  
28    ~~resides.~~

29    ~~(2) This subdivision shall apply to the following offenses,~~  
30    ~~provided that the person has one or more prior or subsequent~~  
31    ~~convictions of an offense listed in paragraph (2) of subdivision~~  
32    ~~(a) of Section 290:~~

33    ~~(A) Section 220, except assault to commit mayhem.~~

34    ~~(B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.~~

35    ~~(C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or~~  
36    ~~(i), of Section 286.~~

37    ~~(D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or~~  
38    ~~(i), of Section 288a.~~

39    ~~(E) Subdivision (b), (d), (e), or (i) of Section 289.~~

~~(d) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in this subdivision or the statutory predecessors of any of these offenses, or of any offense which, if committed or attempted to be committed in this state, would have been punishable as one or more of the offenses listed in this subdivision, the Department of Justice shall make available to the public via the Internet Web site his or her names and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, the community of residence and ZIP Code in which the person resides, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a) or the address at which the person resides.~~

~~(2) This subdivision shall apply to the following offenses:~~

~~(A) Section 220, except assault to commit mayhem, with no prior or subsequent conviction of an offense listed in paragraph (2) of subdivision (a) of Section 290.~~

~~(B) Subdivision (a) of Section 243.4, provided that the offense is a felony.~~

~~(C) Paragraph (1), (3), or (4) of subdivision (a) of Section 261, with no prior or subsequent conviction of an offense listed in paragraph (2) of subdivision (a) of Section 290.~~

~~(D) Section 266, provided that the offense is a felony.~~

~~(E) Section 266e, provided that the offense is a felony.~~

~~(F) Section 266j.~~

~~(G) Section 267.~~

~~(H) Paragraph (2) of subdivision (b), or subdivision (f), (g), or (i), of Section 286, with no prior or subsequent conviction of an offense listed in paragraph (2) of subdivision (a) of Section 290.~~

~~(I) Subdivision (e) of Section 288, provided that the offense is a misdemeanor.~~

~~(J) Paragraph (2) of subdivision (b), or subdivision (f), (g), or (i), of Section 288a, with no prior or subsequent conviction of an offense listed in paragraph (2) of subdivision (a) of Section 290.~~

~~(K) Subdivision (b), (d), (e), or (i) of Section 289, with no prior or subsequent conviction of an offense listed in paragraph (2) of subdivision (a) of Section 290.~~

~~(L) Section 647.6.~~



1 ~~(e) (1) If a person has been convicted of the commission or~~  
2 ~~the attempted commission of any of the offenses listed in this~~  
3 ~~subdivision or the statutory predecessors of any of these offenses;~~  
4 ~~or of any offense which, if committed or attempted to be~~  
5 ~~committed in this state, would have been punishable as one or~~  
6 ~~more of the offenses listed in this subdivision, and he or she has~~  
7 ~~been convicted of no other offense listed in subdivision (b), (c);~~  
8 ~~or (d) other than those listed in this subdivision, that person may~~  
9 ~~file an application for exclusion from the Internet Web site with~~  
10 ~~the Department of Justice. If the department determines that the~~  
11 ~~person meets the requirements of this subdivision, the department~~  
12 ~~shall grant the exclusion and no information concerning him or~~  
13 ~~her shall be made available via the Internet Web site described in~~  
14 ~~this section. He or she bears the burden of proving the facts that~~  
15 ~~make him or her eligible for exclusion from the Internet Web~~  
16 ~~site. However, a person who has filed for or been granted an~~  
17 ~~exclusion from the Internet Web site is not relieved of his or her~~  
18 ~~duty to register as a sex offender pursuant to Section 290 nor~~  
19 ~~from any otherwise applicable provision of law.~~

20 ~~(2) This subdivision shall apply to the following offenses:~~  
21 ~~(A) A felony violation of subdivision (a) of Section 243.4.~~  
22 ~~(B) Section 647.6, provided the offense is a misdemeanor.~~  
23 ~~(C) An offense listed in subdivision (b), (c), or (d) if the~~  
24 ~~offender is eligible for, granted, and successfully completes~~  
25 ~~probation pursuant to Section 1203.066 of the Penal Code.~~

26 ~~(f) The Department of Justice shall make a reasonable effort to~~  
27 ~~provide notification to persons who have been convicted of the~~  
28 ~~commission or attempted commission of an offense specified in~~  
29 ~~subdivision (b), (c), or (d), that on or before July 1, 2005, the~~  
30 ~~department is required to make information about him or her~~  
31 ~~available to the public via an Internet Web site as specified in~~  
32 ~~this section. The Department of Justice shall also make a~~  
33 ~~reasonable effort to provide notice that he or she may be eligible~~  
34 ~~for exclusion from the Internet Web site if he or she may have~~  
35 ~~been convicted of an offense for which exclusion is available~~  
36 ~~pursuant to subdivision (e).~~

37 ~~(g) Notwithstanding Section 6254.5 of the Government Code,~~  
38 ~~disclosure of information pursuant to this section is not a waiver~~  
39 ~~of exemptions under Chapter 3.5 (commencing with Section~~  
40 ~~6250) of Title 1 of Division 7 of the Government Code and does~~

1 ~~not affect other statutory restrictions on disclosure in other~~  
2 ~~situations.~~

3 ~~(h) (1) Any person who uses information disclosed pursuant~~  
4 ~~to the Internet Web site to commit a misdemeanor shall be~~  
5 ~~subject to, in addition to any other penalty or fine imposed, a fine~~  
6 ~~of not less than ten thousand dollars (\$10,000) and not more than~~  
7 ~~fifty thousand dollars (\$50,000).~~

8 ~~(2) Any person who uses information disclosed pursuant to the~~  
9 ~~Internet Web site to commit a felony shall be punished, in~~  
10 ~~addition and consecutive to any other punishment, by a five-year~~  
11 ~~term of imprisonment in the state prison.~~

12 ~~(i) Any person who is required to register pursuant to Section~~  
13 ~~290 who enters the Web site is punishable by a fine not~~  
14 ~~exceeding one thousand dollars (\$1,000), imprisonment in a~~  
15 ~~county jail for a period not to exceed six months, or by both that~~  
16 ~~fine and imprisonment.~~

17 ~~(j) (1) A person is authorized to use information disclosed~~  
18 ~~pursuant to this section only to protect a person at risk.~~

19 ~~(2) Except as authorized under paragraph (1) or any other~~  
20 ~~provision of law, use of any information that is disclosed~~  
21 ~~pursuant to this section for purposes relating to any of the~~  
22 ~~following is prohibited:~~

23 ~~(A) Health insurance.~~

24 ~~(B) Insurance.~~

25 ~~(C) Loans.~~

26 ~~(D) Credit.~~

27 ~~(E) Employment.~~

28 ~~(F) Education, scholarships, or fellowships.~~

29 ~~(G) Housing or accommodations.~~

30 ~~(H) Benefits, privileges, or services provided by any business~~  
31 ~~establishment.~~

32 ~~(3) This section shall not affect authorized access to, or use of,~~  
33 ~~information pursuant to, among other provisions, Sections 11105~~  
34 ~~and 11105.3, Section 8808 of the Family Code, Sections 777.5~~  
35 ~~and 14409.2 of the Financial Code, Sections 1522.01 and~~  
36 ~~1596.871 of the Health and Safety Code, Section 432.7 of the~~  
37 ~~Labor Code, Section 290.02 of the Penal Code, and Section~~  
38 ~~14133.225 of the Welfare and Institutions Code.~~

39 ~~(4) (A) Any use of information disclosed pursuant to this~~  
40 ~~section for purposes other than those provided by paragraph (1)~~

1 ~~or in violation of paragraph (2) shall make the user liable for the~~  
2 ~~actual damages, and any amount that may be determined by a~~  
3 ~~jury or a court sitting without a jury, not exceeding three times~~  
4 ~~the amount of actual damage, and not less than two hundred fifty~~  
5 ~~dollars (\$250), and attorney's fees, exemplary damages, or a civil~~  
6 ~~penalty not exceeding twenty-five thousand dollars (\$25,000).~~

7 ~~(B) Whenever there is reasonable cause to believe that any~~  
8 ~~person or group of persons is engaged in a pattern or practice of~~  
9 ~~misuse of the information available via the Internet Web site in~~  
10 ~~violation of paragraph (2), the Attorney General, any district~~  
11 ~~attorney, or city attorney, or any person aggrieved by the misuse~~  
12 ~~is authorized to bring a civil action in the appropriate court~~  
13 ~~requesting preventive relief, including an application for a~~  
14 ~~permanent or temporary injunction, restraining order, or other~~  
15 ~~order against the person or group of persons responsible for the~~  
16 ~~pattern or practice of misuse. The foregoing remedies shall be~~  
17 ~~independent of any other remedies or procedures that may be~~  
18 ~~available to an aggrieved party under other provisions of law,~~  
19 ~~including Part 2 (commencing with Section 43) of Division 1 of~~  
20 ~~the Civil Code.~~

21 ~~(k) On or before July 1, 2006, and every year thereafter, the~~  
22 ~~Department of Justice shall make a report to the Legislature~~  
23 ~~concerning the operation of this section.~~

24 ~~(l) The Department of Justice and its employees shall be~~  
25 ~~immune from liability for good faith conduct under this section.~~

26 ~~SEC. 5.—~~

27 *SEC. 3.* Section 14133.225 is added to the Welfare and  
28 Institutions Code, to read:

29 14133.225. Notwithstanding any other law, the department  
30 shall not provide or pay for any prescription drug or other  
31 therapy to treat erectile dysfunction for any person who is  
32 required to register pursuant to Section 290 of the Penal Code,  
33 except to the extent required under federal law. The department  
34 may require from the Department of Justice the information  
35 necessary to implement this section.

36 ~~SEC. 6.—~~

37 *SEC. 4.* This act is an urgency statute necessary for the  
38 immediate preservation of the public peace, health, or safety  
39 within the meaning of Article IV of the Constitution and shall go  
40 into immediate effect. The facts constituting the necessity are:

1 In order to prevent funding of drugs or other therapies  
2 prescribed for erectile dysfunction for use by high-risk sex  
3 offenders and to make statutory changes related to automated  
4 drug delivery systems, as soon as possible, it is necessary that  
5 this act take effect immediately.

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